1. S.B. Civil Sales Tax Revision No.285/2006

M/s. Nishklank Marble Suppliers.

vs.

Assistant Commercial Taxes Officer, Ward-II, Rajsamand

2. S.B. Civil Sales Tax Revision No.286/2006

M/s. Nishklank Marble Suppliers.

vs.

Assistant Commercial Taxes Officer, Ward-II, Rajsamand

Date : 14.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sanjeev Johari, for the petitioner.

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Heard learned counsel for the petitioner.

Both these revision petitions are decided by this common order.

According to learned counsel for the petitioner, the petitioner's industrial unit is marble slab and tiles manufacturing unit. It also manufactures marble chips which is proved from the registration certificate Annex.P/2, Annex.P/3 as well as from the certificate Annex.P/4 issued by the Rajasthan Khadi Gramodhyog Board. It is also submitted that the petitioner's industry is covered under the Project Profile of Lime and Stone Industry published by the Directorate of Mineral based Industry (Lime Division) Khadi and Village Industries Commission, Mumbai. According

to learned counsel for the petitioner in the description of the schemes of Lime Stone industry given by the said project profile, under Clause III(B), there is a clear mention of Stone Industry which clearly supports the view of the petitioner that the petitioner's unit is one of the unit covered under the village industries as defined in Khadi and Village Industries Commission Act, 1956 (for short 'the Act of 1956'). As per the government notification no.380 dated 6.3.1978, the petitioner is entitled to the benefit of tax exemption on sale and purchase of the goods by the petitioner unit. Learned counsel for the petitioner submitted that in column no.5 of the said notification, it is clearly mentioned that the produces of the village industries as defined in the Act of 1956 are covered by the said notification as in the Schedule appended thereto at item no.12, there is mention of Lime manufacturing Industry.

I have considered the submissions of learned counsel for the petitioner and perused the registration certificate of the petitioner's unit and the notification as well as project profile, copy of which is placed on record as Annex.P/5.

The tax exemption has been allowed to products of the village industry as defined under the Act of 1956 and the list of the industries which are covered is given in the Schedule appended in the notification. At item no.12, there is mention of lime manufacturing industry. The words “lime manufacturing industry” in common parlance is very clear

and unambiguous. The petitioner wants to include within the term “lime manufacturing industry” the term “marble tiles/slabs/chips manufacturing industry” with the help of project profile of Lime and Stone Industry published by the Directorate of Mineral based Industry (Lime Division) Khadi and Village Industries Commission, Mumbai. Firstly, the products of the industries which are covered in the notification is given in the Act of 1956 and not covered by mere project profile. Apart from above, it is clear from the said project profile that it included the description of schemes wherein at 'III A', there is mention of 'Lime and Allied Products' whereas at 'III B', there is a mention of 'Stone Industry'. This project profile clearly distinguishes 'Lime and its products' and 'stone industry'. Therefore also, even on the basis of the scheme relied upon by the petitioner, it cannot be gathered that the petitioner's unit falls in the category of the lime industry producing any item as mentioned in the schedule.

Learned counsel for the petitioner also submitted that the lime as well as marble both are having chemical composition of Calcium Carbonate, therefore, they are same products, therefore, the petitioner is manufacturing commodity having chemical composition of Calcium Carbonate, therefore, it is producing lime products.

I do not find any force in this submission because of the reason that the marble, marble slabs and marble chips are identifiable distinct commodities having distinct use whereas lime may have same nature of Calcium Carbonate but

its properties are different from marble slabs, marble chips and marble tiles. Therefore, deeming provision of inclusion of one commodity in the category of another commodity cannot be applied where the words are having distinct meaning by themselves.

Accordingly, these sales tax revisions, having no force, are hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya